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## Online Auctions May Be Murky Legal Waters

On the surface, online auctions appear to be a quick, simple and innovative way to connect with customers. Businesses increasingly are using Internet auctions to either raise money for charity or as an alternative avenue for selling merchandise. Both sellers and buyers have become more comfortable with the idea of doing business through an online auction, as eBay and other Web sites have boosted the medium's profile into mainstream acceptability.

But companies need to be aware of and consider the possible legal repercussions before offering an online auction. Many businesses simply may not be aware that online auctions have any legal requirements.

Generally speaking, online auctions must follow the same state guidelines as traditional auctions. In many states, this means the person conducting the auction must be a registered auctioneer with the state.

In North Carolina, for example, the penalties for conducting auctions not performed by an auctioneer sanctioned by the state's Auctioneering Board include misdemeanor charges and a civil penalty of up to \$2,000 per violation. In addition, the North Carolina Auctioneers Commission may seek an injunction to stop or prevent any auctions conducted in violation of the statute.

In order to comply with the North Carolina law, a company would have to apply for an auction firm license, pay a \$500 fee and designate someone as the official auctioneer. That person would have to then submit to a criminal background check and pass a written exam on auction law and process. The auctioneer must then keep certain records, which are subject to state inspection, each time an auction is conducted.

Twenty-eight other states have similar requirements regarding auctioneer licensing. The laws are in place to protect consumers. However, they can create complications for companies selling products via an online auction.

So if you currently are offering online auctions, should you immediately stop them and pull the merchandise off the Website? Well, no. Doing so actually can expose your company to even greater risks. A company that ends online auctions early could expose itself to lawsuits from customers who claim they were waiting until the last minute to bid and were denied a chance to win the good for themselves.

Currently, states generally don't enforce auction statutes against online sellers, according to the National Auctioneers Association, the professional organization of auctioneers. The Association supports greater regulation and licensing of the online auction industry. Only New Hampshire and Illinois have statutes on the books specifically governing online auctions.

However, states could decide to enforce those laws at any time. As a matter of prudence, businesses should consult an attorney to make sure they are in compliance with all applicable state laws before leaping into the realm of online auctions.

If you would like to discuss these matters at greater length, please contact: [Jennifer L. Collins](#)— (919) 755-2194 or [email](#).

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